

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANN McCRACKEN; JOAN FARRELL;
SARA STILSON; KEVIN McCLOSKEY;
CHRISTOPHER TRAPATSOS; and
KIMBERLY BAILEY, as individuals
and as representatives of the classes,

Case No.: 6:14-cv-06248-MAT-JWF

Plaintiffs,

vs.

VERISMA SYSTEMS, INC.;
UNIVERSITY OF ROCHESTER;
STRONG MEMORIAL HOSPITAL; and
HIGHLAND HOSPITAL,

Defendants.

SECOND DECLARATION OF ELEANOR E. FRISCH

1. I am an attorney at Nichols Kaster, PLLP (“Nichols Kaster”), and am one of the attorneys representing Plaintiffs Ann McCracken, Joan Farrell, Sara Stilson, Kevin McCloskey, Christopher Trapatsos, and Kimberly Bailey (collectively “Plaintiffs”) in the above-captioned action. I submit this second declaration in support of Plaintiffs’ Motion for Class Certification.

DOCUMENTS SUBMITTED IN SUPPORT OF MOTION

Deposition Transcripts

2. Attached as Exhibit 1 is a true and correct copy of excerpts from the transcript of Verisma’s 30(b)(6) deposition taken on November 17, 2016.

Summary of Class Data Produced in Discovery

3. Through discovery, Verisma provided a spreadsheet entitled “URMC releases 5-14-2011 thru 6-8-2016 20161025.” The spreadsheet is bates numbered VERISMA118959.

4. The spreadsheet was introduced as Exhibit 66 to Verisma's 30(b)(6) deposition taken on November 17, 2016. *See Exhibit 1, 30(b)(6) Dep. 99:1-103:11* (describing the scope and creation of the document).

5. Of the 38,841 requests on the spreadsheet that have "NY Fee Schedule PHL 18" listed as the fee schedule,¹ I calculate that there are 5,162 unique values listed under the "Bill To Name" column. After removing values under the "Bill To Name" column that are near-matches (e.g., a law firm name that states "P.C." rather than "PC") but in fact appear to be duplicates of the same person or organization, I calculate that there are only approximately 4,320 unique people or organizations listed under the "Bill To Name" column. Of those, I calculate that 2,065 have "Patient" or "Parent/Legal Guardian" listed as the "Requestor Type" in their corresponding requests.

6. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 21, 2016

/s/ Eleanor E. Frisch
Eleanor E. Frisch

¹ In his declaration, Andrew McManus states that there are 38,840 such requests in the spreadsheet and that Plaintiff miscounted. That is incorrect. There are, in fact, 38,841 such requests listed.